

2001 ASSEMBLY BILL 44

January 25, 2001 – Introduced by Representatives WARD, AINSWORTH, FREESE, GRONEMUS, HAHN, HUEBSCH, HUNDERTMARK, KEDZIE, KESTELL, KREIBICH, LA FAVE, MONTGOMERY, NASS, OLSEN, OTT, PLALE, SERATTI, STARZYK, SYKORA and VRAKAS, cosponsored by Senator S. FITZGERALD. Referred to Committee on Agriculture.

1 **AN ACT to amend** 100.22 (3); and **to repeal and recreate** 100.22 (1m) of the
2 statutes; **relating to:** authorizing the payment of different prices to producers
3 for milk based on specified criteria.

Analysis by the Legislative Reference Bureau

Current law generally prohibits a person engaged in the business of buying milk from producers from discriminating between producers in the price paid for milk. It is a defense to prosecution for violating this prohibition that the discrimination in price was done in good faith to meet competition or was commensurate with an actual difference in the quantity of, or transportation charges for, the milk purchased. Current law also authorizes a person to pay producers different prices for milk based on differences in milk quality if certain conditions are satisfied.

This bill authorizes a person engaged in the business of buying milk from producers to pay producers different prices for milk based criteria specified by the person if certain conditions are satisfied. The conditions include that the person must establish a payment method based upon the specified criteria and that the person must make payment in accordance with the payment method to all producers from whom the person buys milk. Under the bill, the fact that the discrimination was commensurate with an actual difference in the quantity of, or transportation charges

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for, the milk purchased is no longer a defense to prosecution for violating the prohibition on milk price discrimination.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.22 (1m) of the statutes is repealed and recreated to read:

2 100.22 **(1m)** MILK PRICING. A person engaged in the business of buying milk
3 from producers for the purpose of manufacturing, processing, or resale may pay
4 producers different prices for the purchase of milk, if all of the following apply:

5 (a) Before making any payment to producers under this subsection, the person
6 engaged in the business of buying milk from producers establishes a payment
7 method based upon criteria specified by the person.

8 (b) Before making any payment to producers under this subsection, the person
9 engaged in the business of buying milk from producers announces, and offers to
10 make payment in accordance with, the payment method established under par. (a)
11 to all producers from whom the person buys milk.

12 (c) The person engaged in the business of buying milk from producers makes
13 payments to all milk producers from whom the person purchases milk in accordance
14 with the payment method established under par. (a).

15 (d) The payment method established under par. (a) is not part of any other
16 method used to discriminate between producers in the price paid for milk or in
17 services furnished in connection with the purchase of milk.

18 (e) If the payment method established under par. (a) requires testing of milk,
19 the person engaged in the business of buying milk complies with any rules
20 promulgated by the department concerning payment based on milk tests.

21 **SECTION 2.** 100.22 (3) of the statutes is amended to read:

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1 100.22 (3) JUSTIFICATION DEFENSE. It is a defense to a prosecution for violation
2 of this section or a special order issued under this section to prove that the
3 discrimination in price or services was done in good faith to meet competition ~~or was~~
4 ~~commensurate with an actual difference in the quantity of or transportation charges~~
5 ~~or marketing expenses for the milk purchased.~~

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(END)